

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No.: 19-10080-NMG
)	
GAMAL ABDELAZIZ <i>et al.</i> ,)	
)	
Defendants)	

**GOVERNMENT’S RESPONSE TO DEFENDANTS’
MOTION TO EXCLUDE EXHIBIT 709 [DKT. 2190]**

Exhibit 709, which the defendants now seek to exclude, was previously marked as Exhibit 1350 – an exhibit that until recently appeared on the defendants’ own joint exhibit list. *See* Dkt. 1956. As recently as several weeks ago, the defendants requested that the government stipulate to its admissibility as a business record.¹ After the government agreed, the defendants withdrew the request. The defendants then submitted a revised exhibit list on September 6 deleting the exhibit, whereupon the government added the exhibit to its list several days later. *See* Dkts. 2153, 2188.

The defendants now argue that it is admissible only for impeachment purposes, Dkt. 2190 at 2, but not by the government. This is nonsense. Nonetheless, the government does not intend to offer the exhibit as part of its case-in-chief unless the defendants open the door to its admission – for example, by attempting to argue or admit evidence that the recruitment of student-athletes in exchange for money was a sanctioned practice of USC. It was not, and Exhibit 709 squarely refutes that, including by disclosing steps USC took in response to the discovery of such improper behavior by rogue employees, and reforms the university undertook to prevent such abuses.

¹ And the defendants have also indicated that they intend to offer other publications and public statements of USC, including even articles in university newsletters, as business records.

Accordingly, the government respectfully requests that the Court reserve decision on Exhibit 709, until such time as the government may seek to introduce it.

Respectfully submitted,

NATHANIEL R. MENDELL
Acting United States Attorney

By: /s/ Stephen E. Frank
KRISTEN A. KEARNEY
LESLIE A. WRIGHT
STEPHEN E. FRANK
IAN J. STEARNS
Assistant United States Attorneys

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

Dated: September 13, 2021

/s/ Stephen E. Frank
STEPHEN E. FRANK